

# SENATE BILL 21

E4

EMERGENCY BILL

3lr3517

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By: **Senator Ferguson**

Introduced and read first time: August 9, 2012

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Handgun Permits – Requirements and Limitations**

3 FOR the purpose of specifying that a person who has been issued a permit to wear,  
4 carry, or transport a handgun may only wear, carry, or transport the handgun  
5 within the scope of the permit issued; altering a certain list of criteria that the  
6 Secretary of State Police must use to determine whether a certain handgun  
7 permit shall be issued to a person to include findings by the Secretary that the  
8 person is not prohibited from possessing a certain regulated firearm under a  
9 certain provision of law, has completed a certain firearms safety training course  
10 within a certain time period unless a certain ground for exemption applies, has  
11 not been discharged from the armed forces of the United States under  
12 dishonorable conditions, does not have a pending charge for a felony or a  
13 misdemeanor for which a sentence of imprisonment for more than a certain  
14 amount of time may be imposed, or has not exhibited certain conduct indicating  
15 the person is potentially dangerous to the public if issued a permit; repealing  
16 the requirement that the Secretary find that a person has a good and  
17 substantial reason to wear, carry, or transport a handgun before issuing a  
18 handgun permit to the person; requiring a person renewing a certain handgun  
19 permit to complete a certain firearms safety training course within a certain  
20 time period, unless a certain ground for exemption applies; prohibiting a certain  
21 handgun permit holder from possessing a handgun on certain real property;  
22 making the provisions of this Act severable; making this Act an emergency  
23 measure; and generally relating to the issuing by the Secretary of State Police of  
24 a permit to wear, carry, or transport a handgun.

25 BY repealing and reenacting, without amendments,  
26 Article – Criminal Law  
27 Section 4–203(a)  
28 Annotated Code of Maryland  
29 (2012 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Criminal Law  
3 Section 4–203(b)(2)  
4 Annotated Code of Maryland  
5 (2012 Replacement Volume)

6 BY repealing and reenacting, without amendments,  
7 Article – Public Safety  
8 Section 5–133  
9 Annotated Code of Maryland  
10 (2011 Replacement Volume)

11 BY repealing and reenacting, with amendments,  
12 Article – Public Safety  
13 Section 5–306 and 5–309  
14 Annotated Code of Maryland  
15 (2011 Replacement Volume)

16 BY adding to  
17 Article – Public Safety  
18 Section 5–315  
19 Annotated Code of Maryland  
20 (2011 Replacement Volume)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article – Criminal Law**

24 4–203.

25 (a) (1) Except as provided in subsection (b) of this section, a person may  
26 not:

27 (i) wear, carry, or transport a handgun, whether concealed or  
28 open, on or about the person;

29 (ii) wear, carry, or knowingly transport a handgun, whether  
30 concealed or open, in a vehicle traveling on a road or parking lot generally used by the  
31 public, highway, waterway, or airway of the State;

32 (iii) violate item (i) or (ii) of this paragraph while on public  
33 school property in the State; or

34 (iv) violate item (i) or (ii) of this paragraph with the deliberate  
35 purpose of injuring or killing another person.



1 physician's certificate that the person is capable of possessing a regulated firearm  
2 without undue danger to the person or to another;

3 (8) except as provided in subsection (e) of this section, is a respondent  
4 against whom a current non ex parte civil protective order has been entered under §  
5 4-506 of the Family Law Article; or

6 (9) if under the age of 30 years at the time of possession, has been  
7 adjudicated delinquent by a juvenile court for an act that would be a disqualifying  
8 crime if committed by an adult.

9 (c) (1) A person may not possess a regulated firearm if the person was  
10 previously convicted of:

11 (i) a crime of violence; or

12 (ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, §  
13 5-613, or § 5-614 of the Criminal Law Article.

14 (2) (i) Subject to paragraph (3) of this subsection, a person who  
15 violates this subsection is guilty of a felony and on conviction is subject to  
16 imprisonment for not less than 5 years and not exceeding 15 years.

17 (ii) The court may not suspend any part of the mandatory  
18 minimum sentence of 5 years.

19 (iii) Except as otherwise provided in § 4-305 of the Correctional  
20 Services Article, the person is not eligible for parole during the mandatory minimum  
21 sentence.

22 (3) At the time of the commission of the offense, if a period of more  
23 than 5 years has elapsed since the person completed serving the sentence for the most  
24 recent conviction under paragraph (1)(i) or (ii) of this subsection, including all  
25 imprisonment, mandatory supervision, probation, and parole:

26 (i) the imposition of the mandatory minimum sentence is  
27 within the discretion of the court; and

28 (ii) the mandatory minimum sentence may not be imposed  
29 unless the State's Attorney notifies the person in writing at least 30 days before trial  
30 of the State's intention to seek the mandatory minimum sentence.

31 (4) Each violation of this subsection is a separate crime.

32 (d) (1) Except as provided in paragraph (2) of this subsection, a person  
33 who is under the age of 21 years may not possess a regulated firearm.

1           (2) Unless a person is otherwise prohibited from possessing a  
2 regulated firearm, this subsection does not apply to:

3                   (i) the temporary transfer or possession of a regulated firearm  
4 if the person is:

5                           1. under the supervision of another who is at least 21  
6 years old and who is not prohibited by State or federal law from possessing a firearm;  
7 and

8                           2. acting with the permission of the parent or legal  
9 guardian of the transferee or person in possession;

10                   (ii) the transfer by inheritance of title, and not of possession, of  
11 a regulated firearm;

12                   (iii) a member of the armed forces of the United States or the  
13 National Guard while performing official duties;

14                   (iv) the temporary transfer or possession of a regulated firearm  
15 if the person is:

16                           1. participating in marksmanship training of a  
17 recognized organization; and

18                           2. under the supervision of a qualified instructor;

19                   (v) a person who is required to possess a regulated firearm for  
20 employment and who holds a permit under Subtitle 3 of this title; or

21                   (vi) the possession of a firearm for self-defense or the defense of  
22 others against a trespasser into the residence of the person in possession or into a  
23 residence in which the person in possession is an invited guest.

24           (e) This section does not apply to a respondent transporting a regulated  
25 firearm if the respondent is carrying a civil protective order requiring the surrender of  
26 the regulated firearm and:

27                   (1) the regulated firearm is unloaded;

28                   (2) the respondent has notified the law enforcement unit, barracks, or  
29 station that the regulated firearm is being transported in accordance with the civil  
30 protective order; and

31                   (3) the respondent transports the regulated firearm directly to the law  
32 enforcement unit, barracks, or station.

1 5-306.

2 (a) Subject to subsection (b) of this section, the Secretary shall issue a permit  
3 within a reasonable time to a person who the Secretary finds:

4 (1) is an adult;

5 (2) (i) has not been convicted of a felony or of a misdemeanor for  
6 which a sentence of imprisonment for more than 1 year has been imposed; or

7 (ii) if convicted of a crime described in item (i) of this item, has  
8 been pardoned or has been granted relief under 18 U.S.C. § 925(c);

9 (3) has not been convicted of a crime involving the possession, use, or  
10 distribution of a controlled dangerous substance;

11 (4) is not presently an alcoholic, addict, or habitual user of a controlled  
12 dangerous substance unless the habitual use of the controlled dangerous substance is  
13 under legitimate medical direction; [and]

14 **(5) IS NOT PROHIBITED FROM POSSESSING A REGULATED**  
15 **FIREARM UNDER § 5-133 OF THIS TITLE;**

16 **(6) HAS, WITHIN 6 MONTHS BEFORE SUBMITTING AN**  
17 **APPLICATION FOR A PERMIT, COMPLETED IN PERSON A CERTIFIED FIREARMS**  
18 **SAFETY TRAINING COURSE THAT THE POLICE TRAINING COMMISSION**  
19 **CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT THE**  
20 **POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3-207 OF THIS**  
21 **ARTICLE, UNLESS A GROUND FOR EXEMPTION SET FORTH IN § 5-119(2)**  
22 **THROUGH (4) OF THIS TITLE APPLIES;**

23 **(7) HAS NOT BEEN DISCHARGED FROM THE ARMED FORCES OF**  
24 **THE UNITED STATES UNDER DISHONORABLE CONDITIONS;**

25 **(8) DOES NOT HAVE A PENDING CHARGE FOR A FELONY OR A**  
26 **MISDEMEANOR FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1**  
27 **YEAR MAY BE IMPOSED; AND**

28 **[(5)] (9) based on an investigation:**

29 (i) has not exhibited a propensity for violence or instability that  
30 may reasonably render the person's possession of a handgun a danger to the person or  
31 to another; and

1 (ii) [has good and substantial reason to wear, carry, or transport  
2 a handgun, such as a finding that the permit is necessary as a reasonable precaution  
3 against apprehended danger] **HAS NOT EXHIBITED ANY CONDUCT THAT INDICATES**  
4 **THE PERSON IS POTENTIALLY A DANGER TO THE PUBLIC IF ISSUED A PERMIT.**

5 (b) An applicant under the age of 30 years is qualified only if the Secretary  
6 finds that the applicant has not been:

7 (1) committed to a detention, training, or correctional institution for  
8 juveniles for longer than 1 year after an adjudication of delinquency by a juvenile  
9 court; or

10 (2) adjudicated delinquent by a juvenile court for:

11 (i) an act that would be a crime of violence if committed by an  
12 adult;

13 (ii) an act that would be a felony in this State if committed by  
14 an adult; or

15 (iii) an act that would be a misdemeanor in this State that  
16 carries a statutory penalty of more than 2 years if committed by an adult.

17 5-309.

18 (a) A permit expires on the last day of the holder's birth month following 2  
19 years after the date the permit is issued.

20 (b) A permit may be renewed for successive periods of 3 years each if, at the  
21 time of an application for renewal, the applicant:

22 (1) possesses the qualifications for the issuance of a permit;

23 (2) **HAS, WITHIN 6 MONTHS BEFORE SUBMITTING AN**  
24 **APPLICATION FOR RENEWAL, COMPLETED IN PERSON A CERTIFIED FIREARMS**  
25 **SAFETY TRAINING COURSE THAT THE POLICE TRAINING COMMISSION**  
26 **CONDUCTS WITHOUT CHARGE OR THAT MEETS THE STANDARDS THAT THE**  
27 **POLICE TRAINING COMMISSION ESTABLISHES UNDER § 3-207 OF THIS**  
28 **ARTICLE, UNLESS A GROUND FOR EXEMPTION SET FORTH IN § 5-119(2)**  
29 **THROUGH (4) OF THIS TITLE APPLIES; and**

30 (3) pays the renewal fee stated in this subtitle.

31 5-315.

1           **(A) A PERSON WHO HOLDS A PERMIT MAY NOT WEAR, CARRY, OR**  
2 **TRANSPORT A HANDGUN WHILE THE PERSON IS ON THE REAL PROPERTY OF:**

3                   **(1) A CHURCH OR OTHER PLACE OF WORSHIP;**

4                   **(2) AN ESTABLISHMENT LICENSED TO SERVE ALCOHOLIC**  
5 **BEVERAGES;**

6                   **(3) A GOVERNMENT BUILDING;**

7                   **(4) A PRIVATE SCHOOL, UNIVERSITY, OR COLLEGE;**

8                   **(5) A PUBLIC SCHOOL, UNIVERSITY, OR COLLEGE;**

9                   **(6) A PUBLIC LIBRARY;**

10                  **(7) A THEATER OR MOVIE THEATER; OR**

11                  **(8) A YOUTH CENTER.**

12           **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
13 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
14 **EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
16 Act or the application thereof to any person or circumstance is held invalid for any  
17 reason in a court of competent jurisdiction, the invalidity does not affect other  
18 provisions or any other application of this Act which can be given effect without the  
19 invalid provision or application, and for this purpose the provisions of this Act are  
20 declared severable.

21           SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency  
22 measure, is necessary for the immediate preservation of the public health or safety,  
23 has been passed by a yea and nay vote supported by three-fifths of all the members  
24 elected to each of the two Houses of the General Assembly, and shall take effect from  
25 the date it is enacted.